

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE A.J.SADASHIVA

WRIT PETITION No. 19309/1998

BETWEEN:

1. Sri R.G.Ramesh Babu,  
Aged about 45 yrs.,
2. Sri.R.G.Udaya Kumar,  
Major.

Both sons of Late R.S.Gopalappa,  
M/s.Uday Cartons, K.M.No.134,  
Alahalli, Uttarahalli Hobli,  
Anjanapura Gram Panchayath,  
Bangalore South Tq.,

.. Petitioners

(By Sri M.S.Purushothama Rao, Adv.,)

AND:

1. State of Karnataka by Secretary  
to Govt., Dept. of Housing and  
Urban Development, Vidhana  
Soudha, Bangalore-1.
2. State of Karnataka by Secretary  
to Govt., Dept. of Revenue,  
Vidhana Soudha, Bangalore-1.
3. The Bangalore Development Authority,  
T.Chowdaiah Road, Bangalore-20,  
by its Commissioner.
4. The Special Land Acquisition Officer,  
Bangalore Development Authority,  
T.Chowdaiah Road, Bangalore-20.

5. The Anjanapura Gram Panchayath,  
Anjanapura, Uttarahalli Hobli,  
Bangalore South Tq., by its  
Secretary.

.. Respondents

(By Sri.K.H.Jagadish, GA, for R1 & 2)

This Writ Petition filed under Articles 226 and 227 of the Constitution of India, praying to quash the proceedings of acquisition in Notification vide Annex.J dt. 17.11.88 on the file of the B.D.A. in so far as the petition schedule property is concerned and etc.,

This Writ Petition coming on for prly. hearing this day, the Court made the following :-

# O R D E R

In LARSEN & TOUBRO LTD., Vs. STATE OF GUJARAT, 1998(4) SCC 387, the Supreme Court is of the view that the "petition is liable to be dismissed on the ground of delay and laches if challenge is not made within a reasonable time." The Supreme Court has further held that :-

"This Court has said that the petitioner cannot sit on the fence and allow the State to complete the acquisition proceedings on the basis that notification u/s 4 and the declaration u/s 6 were valid and then to attack the notifications

on the grounds which were available to him at the time when these were published as otherwise it would be putting a premium on dilatory tactics."

2. The facts in this petition are identical to the facts in the case before the Supreme Court. It is not the case of the petitioner that he was not aware of the acquisition proceedings. On the other hand, he admits the knowledge of the acquisition proceedings and he further admits for having initiated more than one proceedings against BDA in respect of this very property. If the petitioner was aware of the acquisition proceedings, he cannot come to this Court eight years after the declaration is published, for quashing the same.

3. Even otherwise as has been held by the Supreme Court in HARI SINGH Vs. STATE OF U.P., AIR 1984 SC 1020, where large extent of lands are notified for acquisition, it is not just and appropriate to hear one or two owners whose lands are also included in the scheme that they were not aware of the acquisition.

4. This very scheme was challenged by various persons in number of writ petitions before this Court. This Court quashed the declaration only in so far as those petitions reserving liberty to the acquiring authority to proceed afresh from the stage of objections. The BDA after hearing all such petitioners issued fresh declaration in respect of the lands against which the acquisition were quashed. The State Government has also accorded post-facto sanction. In this view of the matter, I find no reason to accept the contention of Sri.M.S. Purushothama Rao, the learned Counsel appearing for the petitioner, that the petitioner had sufficient cause for the delay. The petition, therefore, fails and accordingly rejected solely on the ground of delay and laches.

Sd/-  
JUDGE

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